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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **PAUL JONES MACAGNE AGUSTIN**
13 **P.O. Box 2470**
14 **Rialto, CA 92377**

15 **Registered Nurse License No. 691884**

16 Respondent.

Case No. 2010-30

A C C U S A T I O N

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Heidi Goodman, brings this Accusation solely in her official capacity as the Assistant
21 Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.
- 22 2. On or about November 3, 2006, the Board of Registered Nursing issued Registered
23 Nurse License Number 691884 to Paul Jones Macagne Agustin (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on July 31, 2010, unless renewed.

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1 (f) Conviction of a felony or of any offense substantially related to the
2 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

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4 9. Section 2762 of the Code states:

5 In addition to other acts constituting unprofessional conduct within the
6 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

7 . . .

8 (b) Use any controlled substance as defined in Division 10 (commencing with
9 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
10 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
dangerous or injurious to himself or herself, any other person, or the public or to the
11 extent that such use impairs his or her ability to conduct with safety to the public the
practice authorized by his or her license.

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13 10. Section 2765 of the Code states:

14 A plea or verdict of guilty or a conviction following a plea of nolo contendere
15 made to a charge substantially related to the qualifications, functions and duties of a
registered nurse is deemed to be a conviction within the meaning of this article. The
16 board may order the license or certificate suspended or revoked, or may decline to
issue a license or certificate, when the time for appeal has elapsed, or the judgment
17 of conviction has been affirmed on appeal or when an order granting probation is
made suspending the imposition of sentence, irrespective of a subsequent order
18 under the provisions of Section 1203.4 of the Penal Code allowing such person to
withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
19 the verdict of guilty, or dismissing the accusation, information or indictment.

20 **REGULATORY PROVISIONS**

21 11. California Code of Regulations, title 16, section 1444, states:

22 A conviction or act shall be considered to be substantially related to the
23 qualifications, functions or duties of a registered nurse if to a substantial degree it
evidences the present or potential unfitness of a registered nurse to practice in a
24 manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

25 (a) Assaultive or abusive conduct including, but not limited to, those
26 violations listed in subdivision (d) of Penal Code Section 11160.

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1 12. California Code of Regulations, title 16, section 1445, states:

2
3 (b) When considering the suspension or revocation of a license on the grounds
4 that a registered nurse has been convicted of a crime, the board, in evaluating the
5 rehabilitation of such person and his/her eligibility for a license will consider the
6 following criteria:

7 (1) Nature and severity of the act(s) or offense(s).

8 (2) Total criminal record.

9 (3) The time that has elapsed since commission of the act(s) or offense(s).

10 (4) Whether the licensee has complied with any terms of parole, probation,
11 restitution or any other sanctions lawfully imposed against the licensee.

12 (5) If applicable, evidence of expungement proceedings pursuant to Section
13 1203.4 of the Penal Code.

14 (6) Evidence, if any, of rehabilitation submitted by the licensee.

15 COST RECOVERY

16 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 FIRST CAUSE FOR DISCIPLINE

21 (Conviction of a Felony)

22 14. Respondent is subject to disciplinary action under sections 490 and 2761(f) of the
23 Code in that he sustained convictions of eight felonies following a jury trial. On or about October
24 20, 2008, in the Superior Court for the County of Riverside, in a case entitled *People of the State*
25 *of California v. Paul Jones Augustin*, Case No. RIF143359, respondent was found guilty of
26 violating five counts, of Penal Code section 245(a)(1), assault with a deadly weapon by sufficient
27 force likely to produce great bodily injury on four separate dates, one count of violating Penal
28 Code section 273.5 corporal injury resulting in a traumatic condition upon his spouse; one count
of violating Penal Code section 236, willful violation of the personal liberty of his wife by means
of violence, menace, fraud, and deceit; and one count of violating Penal Code section 273a(a)

1 willful infliction of physical pain and mental suffering on his ten year old son under
2 circumstances likely to produce great bodily harm and death, all felonies. The circumstances
3 surrounding the convictions are as follows:

4 15. On or about January 15, 2008, respondent's wife, Jane Doe, was in the kitchen
5 cleaning while respondent was sleeping on the sofa. He had been drinking alcohol and when he
6 woke up he was angry. He entered the kitchen and began kicking Jane Doe. He then grabbed a
7 knife and swung it toward her head striking her on the cheek.

8 16. On or about January 31, 2008, respondent was arguing with his wife in the kitchen.
9 When she turned her back on him to leave the room he threw a pair of scissors in her direction,
10 missing her but lodging in the wall in front of her.

11 17. On March 24, 2008, respondent was drinking alcohol and may have been drunk. He
12 began arguing with Jane Doe. While arguing respondent took a steak knife out of a drawer and
13 asked Jane Doe if she wanted him to hurt her. Jane Doe tried to turn away from him but he
14 grabbed her and turned her towards him. She was able to get loose from his grip and started
15 going up the stairs. Respondent followed her and bit her on her back. Respondent's ten year old
16 son was present while this was occurring. The police were called and the officers observed
17 bruises on Jane Doe's arms and a small red mark on her back.

18 18. On April 2, 2008, respondent and Jane Doe were in the kitchen arguing while their
19 son was upstairs. Respondent's son heard the arguing and came downstairs. Jane Doe began
20 walking up the stairs and her son yelled at her that his father was getting a knife. Jane Doe ran
21 upstairs and locked herself in her son's bedroom. Respondent broke the door in half and entered
22 the room. Respondent grabbed Jane Doe by the hair and began hitting her head on the floor.
23 Respondent's son was crying and begging for respondent to stop, which he did. Jane Doe was
24 able to get up and run into the master bedroom. She locked the door and hid in the bathroom. As
25 respondent made his way to the bedroom his son tried to stop him and respondent pushed him out
26 of the way causing him to hit the stair railing. Respondent then kicked down the master bedroom
27 door and entered. He grabbed Jane Doe by the hair and pushed her against the wall hurting her
28 head. Then respondent took Jane Doe and pushed her head into the toilet. She pleaded with him

1 to stop and he eventually did stop. Jane Doe tried to leave the house but respondent blocked her
2 way out. She tried to call the police but respondent grabbed the phone from her and told her not
3 to call the police because it would just cause them more financial problems.

4 19. On December 5, 2008, respondent was sentenced to serve ninety days in the Riverside
5 County Jail, and three years in state prison

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Use of Alcoholic Beverages in Manner Dangerous to Others)

8 21. Respondent is subject to disciplinary action under section 2762 of the Code in that he
9 used alcoholic beverages to an extent or in a manner dangerous or injurious to himself or others,
10 as set forth above in paragraphs 14 through 18.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

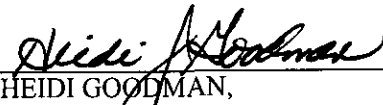
14 1. Revoking or suspending Registered Nurse License Number 691884, issued to Paul
15 Jones Macagne Agustin.

16 2. Ordering Paul Jones Macagne Agustin to pay the Board of Registered Nursing the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 125.3;

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20 3. Taking such other and further action as deemed necessary and proper.

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23 DATED: 7/22/09


HEIDI GOODMAN,
Assistant Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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27 SD2009804136
28 accusation.rtf